Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - PWS, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Dell City, (the "Public Water Facility"), located at 103 South Dodson, Dell City, Hudspeth

County; and

Dell City, (the "Wastewater Facility"), located 0.75 mile northeast of the intersection of Farm-

to-Market Road 1437 and Farm-to-Market Road 2249, Dell City, Hudspeth County.

Type of Operation:

Municipal public water supply and a wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 23, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,138

Amount Deferred for Expedited Settlement: \$1,827 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,311
Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications (RN101210409):

Person/CN - Average

Site/RN - N/A

Compliance History Classifications (RN102844032):

Person/CN - Average

Site/RN - Poor

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 5, 2011 and May 16, 2011

Date(s) of NOE(s): May 19, 2011

Violation Information

At the Public Water Facility:

- 1. Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists [30 Tex. Admin. Code § 290.44(h)(1)(A)].
- 2. Failed to inspect the elevated and ground storage tanks on an annual basis [30 Tex. Admin. Code \S 290.46(m)(1)(A)].
- 3. Failed to obtain a discharge permit from the Commission prior to any discharge of wastewater [30 Tex. Admin. Code §§ 305.42(a) and 290.42(i) and Tex. Water Code § 26.121(a)].

At the Wastewater Facility:

- 4. Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, at the time of the record review, it was observed that the two lift stations were operating on emergency power [30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014256001, Operational Requirements No. 1].
- 5. Failed to monitor for each parameter at the frequency specified in the permit. Specifically, at the time of the record review, it was documented that the Facility was not obtaining and recording measurements for daily flow five times per week because appropriate flow measuring devices were not installed after treatment and before storage and the Facility was not sampling for Biological Oxygen Demand 5-day ("BOD_{5"}) once per week and pH once per month [30 Tex. Admin. Code §§ 305.125(1) and 319.5(d) and TCEQ Permit No. WQ0014256001, Effluent Limitations and Monitoring Requirements, Section B: Monitoring Requirements].
- 6. Failed to correct information submitted on an application and submit it to the Executive Director. Specifically, at the time of the record review, it was observed that the Facility is only capable of irrigating approximately 1 acre of the 74.6 acres of non-public access land authorized by permit [30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014256001, Permit Conditions No. 1].

7. Failed to collect annual soil samples of the irrigated site for the required parameters at the specified frequency and submit the report to the TCEQ during September of each year. Specifically, at the time of the record review, it was documented that the last soil samples were collected on September 29, 2009 for the monitoring period from October 1, 2008 to September 30, 2009 [30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014256001, Special Provisions No. 8].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

- 1. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Public Water Facility:
- a. On May 17, 2011, conducted annual tank inspections for the 80,000 gallon ground storage tank installed in 2009, the 80,000 gallon ground storage tank installed in 1965, and the 50,000 gallon elevated storage tank located in the Public Water Facility's yard; and
- b. As of June 10, 2011, removed the water service connection from the building at the east lift station to ensure that a backflow prevention device or air gap connection is no longer required at that location.
- 2. The Executive Director recognizes that on March 29, 2011, the Respondent obtained a soil analysis report for the Wastewater Facility which included all of the required sample parameters except potassium.

Technical Requirements:

- 1. At the Public Water Facility, the Order will require the Respondent to:
- a. Immediately, cease all unauthorized discharges from the Elecro Dialysis Reversal Unit;
- b. Within 15 days, submit written certification as described below in Ordering Provision b., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.;
- c. Within 90 days:
- i. Conduct an inspection of the Facility's 50,000 gallon ground storage tank;
- ii. Install backflow prevention devices or air gaps as required at all establishments where an actual or potential contamination hazard exists, including but not limited to the Project Vida clinic located adjacent to City Hall;

- d. Within 105 days, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.;
- e. Within 180 days, maintain the Facility's Electro Dialysis Reversal Unit to prevent a discharge or obtain a permit to discharge wastewater from the Facility's backwash reclaim tank; and
- f. Within 195, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e.
- 2. At the Wastewater Facility, the Order will also require the Respondent to:
- a. Within 30 days:
- i. Begin properly maintaining all systems of collection, treatment, and disposal, including but not limited to, restoring normal power to the two lift stations;
- ii. Begin obtaining and recording measurements for daily flow five times per week after treatment and before storage, BOD_5 once per week, and pH once per month;
- iii. Install equipment that has the capability of irrigating 74.6 acres of non-public access land at application rates that do not exceed 0.22 acre-feet per year per acre irrigated or submit an accurate application for a permit amendment to the TCEQ Wastewater Permitting Section to accurately reflect the irrigation system capabilities; and
- iv. Being collecting annual soil samples for all permit-required parameters, including but not limited to potassium.
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Michaelle Sherlock, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4076; Debra Barber, Enforcement Division,

MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Maria Guillen, Mayor, City of Dell City, P.O. Box 125,

Dell City, Texas 79837

Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision October 30, 2008 DATES Assigned 23-May-2011 PCW 7-Jun-2011 **EPA Due** Screening 6-Jun-2011 RESPONDENT/FACILITY INFORMATION Respondent City of Dell City Reg. Ent. Ref. No. RN101210409 Major/Minor Source Minor Facility/Site Region 6-El Paso CASE INFORMATION Enf./Case ID No. 41771 No. of Violations 2 Order Type 1660 Docket No. 2011-0884-MLM-E Media Program(s) Public Water Supply Government/Non-Profit Yes Multi-Media Water Quality Enf. Coordinator Michaelle Sherlock EC's Team Enforcement Team 2 Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,400 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage \$98 **Compliance History** 7.0% Enhancement Subtotals 2, 3, & 7 Enhancement for one NOV with same/similar violations and one NOV Notes with dissimilar violations. 0.0% Enhancement \$0 Subtotal 4 Culpability No The Respondent does not meet the culpability criteria: Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 0.0% Enhancement* Subtotal 6 \$0 **Economic Benefit** Total EB Amounts *Capped at the Total EB \$ Amount \$243 Approx. Cost of Compliance \$1,498 SUM OF SUBTOTALS 1-7 Final Subtotal \$0 OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adiustment Reduces or enhances the Final Subtotal by the indicated percentage. Notes

STATUTORY LIMIT ADJUSTMENT

Notes

PAYABLE PENALTY

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

Final Penalty Amount

Adjustment

Final Assessed Penalty

Reduction

20.0%

\$1,498

\$1,498

-\$299

\$1,199

Screening Date 6-Jun-2011

Docket No. 2011-0884-MLM-E

Respondent City of Dell City

Case ID No. 41771

Reg. Ent. Reference No. RN101210409

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Compliance History Worksheet

Component	Number of	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	n	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non- adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	· 0% · ·
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0% ~
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%
Audies	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	÷ 0	0%
	Ple	ase Enter Yes or No	·
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	≗ No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Per	centage (Sub	total 2) [
epeat Violator (
N/A	Adjustment Per	centage (Sub	total 3)
ompliance Histo	ry Person Classification (Subtotal 7)		
Average Pe		centage (Sub	t otal 7) [
ompliance Histo	ry Summary		
Compliance History	Enhancement for one NOV with same/similar violations and one NOV with dissim	ular violations	

Total Adjustment Percentage (Subtotals 2, 3, & 7) 7%

	ening Date		Docket No. 2011-0884-MLM-E	entre derrete e dide le	PCW
	Respondent Case ID No.	City of Dell City		,	on 2 (September 2002)
Reg. Ent. Re				PCW KEI	vision October 30, 2008
		Public Water Supply			
	rock to the second contract of the second con	Michaelle Sherlock			
Viol	ation Number	1			
	Rule Cite(s)		30 Tex. Admin. Code § 290.44(h)(1)(A)		
				-	
Violatio	on Description	residences and estab exists. Specifically, at was no backflow prev	a backflow prevention assembly or an air gap is installishments where an actual or potential contamination the time of the record review, it was documented vention assembly or air gap installed at the Project Hall and the east wastewater treatment plant lift st	on hazard that there Vida clinic	
			Bas	e Penalty[\$1,000
>> Environme	ntal, Proper	ty and Human He	ealth Matrix		
	Release		rm erate Minor		
OR	Actual				
	Potential	L. X. J.	Percent 25%		
>>Programma	tic Matrix				
7	Falsification	Major Mode	erate Minor		
	L	Liponoporoporoporo	Percent 0%		
Marketin	Failure to pro	vide a backflow preven	tion assembly or air gap could allow backflow and s	iphonage	
Matrix Notes		ich could expose custoi	mers of the Facility to significant amounts of contan		
		wnich could exceed	levels that are protective of human health.		
			Adjustment	\$750	
				· r	\$250
Violation Event	ts			-	
	Number of V	/iolation Events	Number of violation	days	
	1	daily			
		weekly			
	mark only one	monthly	sacadataaafi	- Dla	¢1.000
	with an x	quarterly semiannual	Violation Bas	e Penaity_	\$1,000
		annual			
		single event			
	Four mont	thly events are recomn	nended (2 months per site without a backflow preve	ention	
	assembly or a	₩	m the date of the record review, May 5, 2011, to the screening, June 6, 2011.	e date of	li Hi anna anna
			screening, June 6, 2011.	الحصيصي	
Good Faith Effo	orts to Comp		0.0% Reduction		\$0
		Extraordinary Before	NOV NOV to EDPRP/Settlement Offer		
		Ordinary			
		N/A N/A	((mark with x)		
		Notes The Re	spondent does not meet the good faith criteria for		
		NOCES	this violation.		0000000
			Violation	Subtotal	\$1,000
					\$1,000
Economic Bene	fit (EB) for	this violation	Statutory Limit	Test	
	Estimate	ed EB Amount	\$63 Violation Final Pena	alty Total	\$1,070
		Thi	s violation Final Assessed Penalty (adjusted f	or limits)	\$1,070
		•		/_	

	City of Dell Cit		ur in victoria de l'estre de la compansión de l'estre de l'estre de l'estre de l'estre de l'estre de l'estre d	ALERON STREET,			
Case ID No.		•					
ea. Ent. Reference No.)	1.0		grant of the second		
	Public Water S						Years of
Violation No.						Percent Interest	Depreciation
• Iolation Ito.						5.0	15
	Trem Cost	Date Required	Final Date	Vrc	Interest Saved	Santone en artarior establica establica establica establica establica establica establica establica establica e	EB Amount
Item Description			. mm Puic			Giretime Cours	
rteni Description	ivo continues or ≱						
Delayed Costs							
Equipment	\$680	1-Nov-2010	1-Mar-2012	1.33	\$3	\$60	\$63
Buildings	****	1 1		0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
		7/		1			
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	 [4] C. Congression of the contract of the contrac			0.00	\$0 stall a backflow pre	n/a evention assembly o	\$0 or air gap at the
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling	clinic and the	e wastewater treat the violation	ment plant lift was first obser	0.00 nt to instation ved to enterin 0.00 0.00 0.00	\$0 stall a backflow pro , calculated from to the estimated date ng item (except of \$0 \$0 \$0 \$0	n/a evention assembly of the date of the investe of compliance. for one-time avoid \$0 \$0 \$0	\$0 or air gap at the stigation when the stigation
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Screening Date		Docket No. 2011-0884-MLM-E	PCW	
Kesponden Case ID No	City of Dell City		Policy Revision 2 (September 2002) PCW Revision October 30, 2008	1
Reg. Ent. Reference No	RN101210409	sa sa ili di	and the state of the state of	
	Public Water Supply	en e		
Enf. Coordinato Violation Numbe	** L			
Rule Cite(s) 3	0 Tex. Admin. Code § 290.46(m)(1)(A)		
	Failed to inspect th	e elevated and ground storage tanks on an annua	basis.	
Violation Description	Specifically, at the time	of the record review, the Facility was not conduct	ing annual	
	inspections on the ti	nree ground storage tanks and the elevated storage	je tank.	
		Bas	se Penalty \$1,000	
>> Environmental, Prope	rtv and Human He	olth Matrix		
	Harı	n		
Release OR Actua		ate Minor		
Potentia		Percent 10%		
>>Programmatic Matrix		· · · · · · · · · · · · · · · · · · ·		
Falsification	Major Moder			
		Percent 0%	t kapana kanala	h marker
Failure to	inspect the ground and el	evated storage tanks on an annual basis could cau	se non-	
Matrix detection	n of defects and could ex	pose customers of the Facility to a significant amo	int of 📗	
cont	aminants which would no	t exceed levels that are protective of human healt		
		** Adjustment	\$900	. 32-
		4.	\$100	
			1	
Violation Events				
Number of	Violation Events 4	365 Number of violation	days	. :
	daily	57-8884		
	weekly			
mark only one	monthly	Violeties Dec	co Donaline data	1
with an x	quarterly semiannual	Violation Bas	se Penalty \$400	
	annual <u>x</u>		ুলকার প্রাক্তি ১৯১	
	single event			
Four annual	events are recommender	(one for each tank) for the 12-month period prec	eding the	
1.00.0	Creme dre recommende	record review.		
				•
Good Faith Efforts to Com	iply 0 Before I	.0% Reduction NOV NOV to EDPRP/Settlement Offer	\$0	
	Extraordinary Extra	NOV to EDFRY/Settlement One		
	Ordinary		an and a second	
	N/A x	(mark with x)		
	Notes The Res	pondent does not meet the good faith criteria for		
		this violation.		
		Violation	Subtotal \$400	The state of the s
<u> </u>				
Economic Benefit (EB) for	this violation	Statutory Limit	: rest	
Estima	ted EB Amount	\$180 Violation Final Pen	alty Total \$428	
	Thi	s violation Final Assessed Penalty (adjusted f	or limits) \$428	

	E	conomic	Benefit	Wo	rksheet			
Respondent	Branking and an anti-							10.000.00000
Case ID No.	8	•			11.			
ea. Ent. Reference No.		· }	14			na Nama di kabangan kabangan di kab		
	Public Water S			-	71. A		Years of	
	3	supply			43.	Percent Interest	Depreciation	
Violation No.	2							
						5.0	15	
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
Item Description	No commas or \$							9
•		666 1618 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	38288888888888888888888888888888888888	richosses e e e e e	biblio de la company de la com			
Delayed Costs								1
Equipment	r	T		0.00	\$0	\$0	\$0	
Buildings				0.00	\$0	<u>\$0</u>	\$0	
Other (as needed)				0.00	\$0	\$0	\$0	
Engineering/construction				0.00	\$0	\$0	\$0	
Land	100			0.00	\$0	n/a	\$0	
Record Keeping System				0.00	\$0	ri/a	\$0	
Training/Sampling				0.00	\$0	n/a	\$0	
Remediation/Disposal				0.00	\$0	n/a	\$0	
Permit Costs				0.00	\$0	n/a	\$0	
Other (as needed)				0.00	\$0	n/a	\$0	
Notes for DELAYED costs Avoided Costs	ANNUAL	IZE [1] avoided	costs before	enterin	ia item (except	for one-time avoi	ded costs)	angeres announce of the second
Avoided Costs Disposal				0.00	\$0	\$0	\$0	
Personnel		0.0000000000000000000000000000000000000		0.00	\$0 \$0	\$0 \$0	\$0 \$0	
pection/Reporting/Sampling				0.00	\$0	\$0	\$0	in white
Supplies/equipment				0.00	<u>\$0</u>	\$0	\$0	
Financial Assurance [2]	 			0.00	\$0	\$0	\$0	
	\$164	5-May-2010	5-May-2011	1.92	\$16	\$164	\$180	į
ONE-TIME avoided costs [3]			manager and the contract of th			many deliverative deliveration of the second se		1.
ONE-TIME avoided costs [3] Other (as needed)				0.00	\$0	\$0	\$0	
				<u> 0.00 </u>	<u>\$0</u>	50	50	**** . 3
		d costs include th	e estimated am					***************************************
ONE-TIME avoided costs [3] Other (as needed) Notes for AVOIDED costs		(Prince Le July Constitut de Monte Calendaria)		ount ne	cessary to conduc	t inspections of the ecord review date.		A CONTRACTOR OF THE CONTRACTOR
Other (as needed)		(Prince Le July Constitut de Monte Calendaria)		ount ne	cessary to conduc	t inspections of the		and the second s

Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision October 30, 2008 DATES Assigned 23-May-2011 PCW 7-Jun-2011 Screening 6-Jun-2011 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent City of Dell City Reg. Ent. Ref. No. RN101210409 Facility/Site Region 6-El Paso Major/Minor Source Minor CASE INFORMATION No. of Violations 1 Enf./Case ID No. 41771 Order Type 1660 Docket No. | 2011-0884-MLM-E Media Program(s) Water Quality Government/Non-Profit Yes Multi-Media Public Water Supply Enf. Coordinator Michaelle Sherlock EC's Team Enforcement Team 2 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$2,000 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. Compliance History 7.0% Enhancement Subtotals 2, 3, & 7 \$140 Enhancement for one NOV with same/similar violations and one NOV Notes with dissimilar violations. **Culpability** No 0.0% Enhancement Subtotal 4 \$0 The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 **Economic Benefit** 0.0% Enhancement* Subtotal 6 \$0 Total FR Amounts *Capped at the Total EB \$ Amount \$88 Approx. Cost of Compliance \$2,140 SUM OF SUBTOTALS 1-7 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% \$0 Reduces or enhances the Final Subtotal by the indicated percentage.

Final Penalty Amount

Final Assessed Penalty

Reduction Adjustment

20.0%

\$2,140

\$2,140

-\$428

\$1,712

Notes

Notes

PAYABLE PENALTY

STATUTORY LIMIT ADJUSTMENT

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Respondent City of Dell City Case ID No. 41771

Reg. Ent. Reference No. RN101210409

Media [Statute] Water Quality Enf. Coordinator Michaelle Sherlock

npliance Hist Component	Number of	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	n	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non- adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0 %	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	* *0 **	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	÷ 0	0%
Auuis	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	÷ 0	·: 0% =
	Ple	ease Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	· No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Per	centage (Sub	total 2)
eat Violator	Subtotal 3)		
N//	Adjustment Per	centage (Sub	total 3)
pliance Histo	ory Person Classification (Subtotal 7)		
Average Po		centage (Sub	total 7)
411 11 11 11 11 11 11 11 11 11 11 11 11	ory Summary	-	- 1
Compliance History Notes	Enhancement for one NOV with same/similar violations and one NOV with dissim	nilar violations.	

Screening Date		Docket	No. 2011-0884-MLM-E		PCW	tu .
Respondent (Case ID No. 4				Policy Revision 2 (Sep PCW Revision Oct		
Reg. Ent. Reference No. 1			to gradica de la compansión de la compan	S. Challe 14-14.		
Media [Statute] \	Water Quality					
Enf. Coordinator	Michaelle Sherlock					
	<u>а</u> В	The second second				
Rule Cite(s)	30 Tex. Admin. Code §§ :	305.42(a) and 290.42() and Tex. Water Code §	26.121(a)		
						sewi uni
			mmission prior to any dis		***************************************	
Violation Description			rd review, a review of the harging its reject water fi			
www.		Dialysis Reversal Unit		Unit of the last		ing the street of the street o
NAMA AND AND AND AND AND AND AND AND AND AN			Base	e Penalty	\$10,000	
	****				1-1-1	
>> Environmental, Propert	y and Human Heal Harm			29		(1) (数字) (1)
Release	Major Moderat		law w	die.		100
OR Actual				raali i	***	
Potential			Percent 0%			N. J.
>>Programmatic Matrix						
Falsification	Major Moderat	te Minor	5	At a second		e species some
THE PROPERTY OF THE PROPERTY O	х	السنسنسالس	Percent 10%			e me e
					- ***	5.°
Matrix Notes	100% of the	rule requirement was r	ot met.		***	
				<u> </u>	* .ct.su	and the second s
			Adjustment	\$9,000	***	s La surficiente de la companya de la
^					\$1,000	
				L	\$1,000	
Violation Events					a december of	3%
Number of Vi	olation Events 2	32	Number of violation	davs	and more	* ·
	<u> </u>				-	
	daily				C. C	
	weekly x				are compared the compared to t	
mark only one with an x	quarterly		Violation Base	Penalty	\$2,000	
in the second se	semiannual annual					
	single event			2		
	I			-		
Two monthly e			record review date to the	June 6,		
	20	011 screening date.				
Good Faith Efforts to Compl	ly 0.0 Before NO	Physical Reduction NOV to EDPRP/Settlement	ot Offer		\$0	. † 🛱
E	Extraordinary					u diseña de la composición dela composición de la composición de la composición de la composición dela composición dela composición dela composición de la composición de la composición dela composición de la composición dela composición
	Ordinary					
Management	N/A x	(mark with x)				
	Notes The Respo		ne good faith criteria for		· · · · · · · · · · · · · · · · · · ·	
		this violatio	n.			
water the state of	A CONTRACTOR OF THE PARTY OF TH		\/!=!=!	Subtata!	\$2,000	
			Violation	Suntotal	∌∠,∪∪∪	
Economic Benefit (EB) for t	his violation		Statutory Limit	Test		19 19
Estimated	d EB Amount	\$88	Violation Final Pena	ity Total	\$2,140	
Constitution of the Consti	S	·				
	INISV	iviation rinal Assess	ed Penalty (adjusted fo	n mmt5)[\$2,140	

	E	conomic	Benefit	Wo	rksheet		
Respondent Case ID No.	City of Dell Cit	67546666666646476566666566666666					\$\$\$40.04.\$\$\$\$ \$\$\$0 \$ \$.000
leg. Ent. Reference No. Media Violation No.	Water Quality					Percent Interest	Years of Depreciation
						5.0	15
Item Description		Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs Equipment	T	<u> </u>		0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	*****		************	0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System		├───		0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal			************	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	1-Nov-2010	1-Jan-2012	1.17	\$88	n/a	\$88
Notes for DELAYED costs	Dialysis Rev	ersal Unit, calcula	ted from the di	ate whe	en the violation wa mpliance.	or the discharge from s first observed to t	he estimated
Avoided Costs	ANNUAL	IZE [1] avoided	costs before	enterir	ng item (except	for one-time avoid	led costs)
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
pection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$1,500			TOTAL		\$88

Penalty Calculat	ion Worksheet (PCW) PCW Revision October 30, 2008
TCEQ	1 CW Normalian October 307 2000
DATES Assigned 23-May-2011 Screening 7-Jun-20	11 EPA Due
RESPONDENT/FACILITY INFORMATION Respondent City of Dell City Reg. Ent. Ref. No. RN102844032 Facility/Site Region 6-El Paso	Major/Minor Source Minor
CASE INFORMATION Enf./Case ID No. 41771 Docket No. 2011-0884-MLM-E Media Program(s) Water Quality Multi-Media Public Water Supply Admin. Penalty \$ Limit Minimum \$0 Maximum	No. of Violations 4 Order Type 1660 Government/Non-Profit Yes Enf. Coordinator EC's Team Enforcement Team 2 \$10,000
Penalty Calcu	llation Section
TOTAL BASE PENALTY (Sum of violation base pe	**************************************
ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subt Compliance History 10.	otal 1) by the indicated percentage. 0% Enhancement Subtotals 2, 3, & 7 \$500
Notes Enhancement for two NOVs with	n same/similar violations.
Culpability No 0.	0% Enhancement Subtotal 4 \$0
Notes The Respondent does not meet	t the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 \$0
	0% Enhancement* Subtotal 6 \$0 Capped at the Total EB \$ Amount
SUM OF SUBTOTALS 1-7	Final Subtotal \$5,500
OTHER FACTORS AS JUSTICE MAY REQUIRE Reduces or enhances the Final Subtotal by the indicated percentage.	0.0% Adjustment \$0
Notes	
Unajaira na	Final Penalty Amount \$5,500
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$5,500
DEFERRAL Reduces the Final Assessed Penalty by the indicted percentage. (Enter number of	20.0% Reduction Adjustment -\$1,100
Notes Deferral offered for expe	edited settlement.

\$4,400

PAYABLE PENALTY

PCW

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Screening Date 7-Jun-2011

Respondent City of Dell City **Case ID No.** 41771

Reg. Ent. Reference No. RN102844032

Media [Statute] Water Quality

Enf. Coordinator Michaelle Sherlock

Co	omponent	ry Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.
	NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
		Other written NOVs	0	0%
		Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	o	0%
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
1	Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
a	and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	O (1841)	0%
(Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
	Emissions	Chronic excessive emissions events (number of events)	0	0%
***************************************	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
		Pie	ase Enter Yes or No	T
		Environmental management systems in place for one year or more	No	0%
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Other	Participation in a voluntary pollution reduction program	No	0%
		Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
		Adjustment Per	centage (Sub	total 2)
pea	at Violator (
	No	Adjustment Per	centage (Sub	total 3)
mp	liance Histo	ry Person Classification (Subtotal 7)		
	Average Pe	rformer Adjustment Per	centage (Sub	total 7)
mp	liance Histo	ry Summary		
Ċ	Compliance History Notes	Enhancement for two NOVs with same/similar violations.		

	E	conomic I	Benefit	Wo	rksheet		
Respondent		ty					
Case ID No.							
Reg. Ent. Reference No.	RN102844032	2					6 0000 00000000000000000000000000000000
Media	Water Quality					Percent Interest	Years of
Violation No.	1						Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment	\$120,000	1-Nov-2010	1-Jan-2012	1.17	\$467	\$9,337	\$9,804
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	<u>\$0</u>
Training/Sampling		1		0.00	\$0	n/a	\$0
Remediation/Disposal		<u> </u>	*********	0.00	\$0	n/a	\$0
Permit Costs		<u> </u>		0.00	\$0	n/a	\$0
Other (as needed)		<u> </u>		0.00	L \$0	n/a l	\$0
Notes for DELAYED costs Avoided Costs	work (x 2	lift stations). The d observed a	late required is and the final da	the da te is th enteri i	te of the investiga e estimated date on the contraction of the contrac	for one-time avoic	ion was first led costs)
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
spection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment		<u> </u>		0.00	\$0	\$0	<u>\$0</u> \$0
Financial Assurance [2]				0.00	\$0	\$0	
ONE-TIME avoided costs [3]		 		0.00	\$0 \$0	\$0 \$0	<u>\$0</u> \$0
Other (as needed)		<u> </u>		1 0.00	50		
Notes for AVOIDED costs							

Scree	ening Date	7-Jun-2011	Docket No. 2011-0884-MLM-E		PCW
		City of Dell City		-	on 2 (September 2002)
	ase ID No.			PCW Rev	rision October 30, 2008
Reg. Ent. Ref		RN102844032 Water Quality			
		Michaelle Sherlock			
	tion Number	Commence of the Commence of th			
	Rule Cite(s)		n, Code §§ 305.125(1) and 319.5(d) and TCEQ Permit	No.	
			Effluent Limitations and Monitoring Requirements, Sec		
			Monitoring Requirements		
		Falled to monitor	for each parameter at the frequency specified in the pe	rmit, as	
			cord review conducted on May 16, 2011. Specifically, the		
Violation	n Description		and recording measurements for daily flow five times p te flow measuring devices were not installed after treatr		
			the Facility was not sampling for Biological Oxygen De		
			(BOD5) once per week and pH once per month.		
		<u>Unancentriciti i incommentation and a commentation and a commentation</u>			
			Base	Penalty	\$10,000
>> Environmen	tal Droner	tv and Human I	Health Matrix		
>> Environmen	itai, riopei	ty anu numan i i	Harm		
	Release	Major Mo	oderate Minor		
OR	Actual	Entransia de la companya del companya del companya de la companya del la companya de la companya			
	Potential		X Percent 10%		
>>Programmat	ie Matric				
>>riogrammat	Falsification	Major Mc	oderate Minor		
			Percent 0%		
e e					
Matrix	Failure to con	nply with permitted r	nonitoring requirements could result in the release of si	gnificant	
Notes	amounts o		ild not exceed levels that are protective of human healt	h and	
		environmei	ntal receptors as a result of the violation.		
			Adjustment	\$9,000	
			AUJUSTINGIN.	\$2,000	
					\$1,000
Violation Events	c				
VIOIAGON EVENC	7				
	Number of \	Violation Events	1 22 Number of violation of	lays	
		I 12.00 F			
		daily weekly			
		monthly			
	mark only one with an x	quarterly	x Violation Base	Penalty	\$1,000
	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	semiannual			
		annual			
	-	single event			
Ĩ					
	One quarter	ly event is recomme	nded from the May 16, 2011 record review date to the . 2011 screening date.	June 7,	
			2011 Screening dates.		
C		_1	0.00/-	г	\$0
Good Faith Effo	rts to Com		0.0% Reduction ore NOV NOV to EDPRP/Settlement Offer	L	40
		Extraordinary			
		Ordinary			
		N/A	(mark with x)		
		The	Respondent does not meet the good faith criteria for		
		Notes	this violation.		
			Violation	Subtotal	\$1,000
					42,000
Economic Benel	fit (EB) for	this violation	Statutory Limit	Test	
	E_L!*	od ED A	¢627 Violation Einel Bana	lty Total	\$1,100
	Estimate	ed EB Amount	\$637 Violation Final Pena	icy rocal_	\$1,100
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		This violation Final Assessed Penalty (adjusted for	r limits)	\$1,100

Economic Benefit Worksheet Respondent City of Dell City Case ID No. 41771 Reg. Ent. Reference No. RN102844032 Media Water Quality Years of Percent Interest Depreciation Violation No. 2 5.0 15 **Onetime Costs** EB Amount Item Cost Date Required **Final Date** Yrs Interest Saved Item Description No commas or \$ Delayed Costs 1.17 \$21 \$414 \$435 Equipment \$0 \$0 Buildings 0.00 \$0 0.00 \$0 \$0 \$0 Other (as needed) \$0 0.00 Engineering/construction \$0 \$0 \$0 \$0 0.00 Land n/a Record Keeping System 0.00 \$0 n/a \$0 Training/Sampling 0.00 \$0 n/a \$0 Remediation/Disposal 0.00 \$0 n/a \$0 **Permit Costs** 0.00 \$0 \$0 n/a 1-Nov-2010 1-Jan-2012 1.17 Other (as needed) Delayed costs include the estimated amount for a new flow measuring device including purchase, installation, and setup to monitor the influent volume. The other delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that Notes for DELAYED costs required parameters are analyzed. The date required is the investigation date when the violation was first observed and the final date is the estimated date of compliance. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) Avoided Costs 0.00 Disposal \$0 \$0 \$0 Personnel 0.00 \$0 \$0 \$0 \$0 0.00 \$0 \$0 Inspection/Reporting/Sampling \$0 \$0 \$0 Supplies/equipment 0.00 \$0 \$0 Financial Assurance [2] 0.00 \$0 ONE-TIME avoided costs [3] 0.00 \$0 \$0 \$0 Other (as needed) 1-Nov-2010 1.45 \$188 The other avoided costs include the estimated amount to conduct the required monitoring (\$25 per month). The date required is the date when the violation was first observed and the final date is the date Notes for AVOIDED costs of the record review. \$5,748 TOTAL \$637 Approx. Cost of Compliance

Screening Date	7-Jun-2011	Docket No. 2011-0884-MLM-E	PCW
Respondent		Policy Revision	on 2 (September 2002)
Case ID No.		PCW Rev	ision October 30, 2008
Reg. Ent. Reference No.			
Media [Statute]			
Enf. Coordinator	Character Control of the Control of	ock	
Violation Number	laasaaaaaaaaaaaaaaaaaaaaaaa		
Rule Cite(s)	30 Tex. Admi	n. Code § 305.125(1) and TCEQ Permit No. WQ0014256001, Permit	
		Conditions No. 1	
	Failed to co	rrect information submitted on an application and submit it to the	
Violation Description	Executive Dir	ector. Specifically, at the time of the record review, it was observed	
**************************************	that the Facilit	y is only capable of irrigating approximately 1 acre of the 74.6 acres	
	or	non-public access land authorized by the issued permit.	
	L		
		Base Penalty	\$10,000
>> Environmental, Proper	ty and Hum		
Release	Major	Harm Moderate Minor	
OR Actual	United States of the Party of t		
Potential	h-economicon commonoment	Percent 0%	-
	I bronzennesse processe se	language properties of the control o	
>>Programmatic Matrix			
Falsification	Major	Moderate Minor	
Language Company Compa	<u> x </u>	Percent 10%	
lancanomic de la company de			
Matrix			
Notes	10	10% of the rule requirement was not met.	
de distribución acompanien companien	Deste conscionant reconocide de la		. verd . add
		Adjustment \$9,000	
			\$1,000

Violation Events			
Number of '	Violation Events	1 22 Number of violation days	
	dally		
	weekly		
mark only one	monthly		¢1.000
with an x	quarterly	Violation Base Penalty	\$1,000
	semiannual		
	annual		4
	single event	XX	
			0000000
		One single event is recommended.	
	**********************		errentan.
			40
Good Faith Efforts to Com	ply	0.0% Reduction	\$0
	Extraordinary	Before NOV NOV to EDPRP/Settlement Offer	
	Ordinary	(read with w	
	N/A	x (mark with x)	
	Notes	The Respondent does not meet the good faith criteria for	
	Notes	this violation.	
	·		
		Violation Subtotal	\$1,000
Economic Benefit (EB) for	this violatio	n Statutory Limit Test	
Fetimat	ed EB Amount	\$6 Violation Final Penalty Total	\$1,100
Estillat	Ca Lo Amount	Troidson Final County Total	
Santa Maria de Maria de Caracteria de Caract		This violation Final Assessed Penalty (adjusted for limits)	\$1,100

onomic I	Benefit	Wo	rksheet		

				Percent Interest	Years of
				r ci cene anterest	Depreciation
				5.0	15
ate Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
		0.00	\$0	\$0 I	\$0
		0.00	\$0 \$0	\$0 \$0	\$0 \$0
		0.00	\$0 \$0	<u>50</u> \$0	\$0 \$0
		0.00	\$0 \$0	\$0 \$0	<u> </u>
		0.00	50 50	n/a	\$0
		0.00	\$0	n/a	\$0
		0.00	\$0	n/a	\$0
		0.00	\$0	n/a	\$0
1-Nov-2010	1-Jan-2012	1.17	\$6	n/a	\$6
- 4.1107.50+7	17 417.6446	0.00	\$ 0	n/a	\$0
	date is the est	imated	date of complianc		
E [1] avoided	costs before			for one-time avoid	
		0.00	\$0	<u>\$0</u>	\$0
		0.00	\$0	\$0	\$0
		0.00	\$0	\$0	<u> </u>
		0.00	\$0	\$0	<u>\$0</u>
		0.00	<u>\$0</u>	\$0 \$0	<u>\$0</u>
		0.00	\$0 \$0	\$0 \$0	\$0 \$0
خالىدىنىدىدىد		1.0.001	<u>⊅U</u> 1	PU	30
\$100			TOTAL		\$6
	\$100	\$100	\$100	\$100 TOTAL	\$100 TOTAL

n 2 (September 2002)	Jun-2011 Docket No. 2011-0884-MLM-E	
	ry of Dell City Policy Revision 2	Respondent
sion October 30, 2008		Case ID No.
	1102844032	Reg. Ent. Reference No.
	ater Quality	Media [Statute]
	chaelle Sherlock	Enf. Coordinator
	4	Violation Number
	0 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014256001, Special	Rule Cite(s)
	Provisions No. 8	
	ailed to collect annual soil samples of the irrigated site for the required parameters at the specified frequency and submit the report to the Texas Commission on invironmental Quality ("TCEQ") during September of each year. Specifically, at the time of the record review, it was documented that the last soil samples were illected on September 29, 2009 for the monitoring period from October 1, 2008 to September 30, 2009.	Violation Description
\$10,000	Base Penalty	
	and Human Health Matrix Harm Major Moderate Minor X Percent 10%	>> Environmental, Proper Release OR Actual Potential
		>>Programmatic Matrix
	Major Moderate Minor	Falsification
	Percent 0%	
		[
	ct annual soil samples could result in non-detection of a release of a significant	
	contaminants that would not exceed levels protective of human health and	Notes amount
	environmental receptors as a result of the violation.	
	+0.000	
	Adjustment \$9,000	
\$1,000		
41/000		
		iolation Events
		Iolation Events
	ation Events 1 22 Number of violation days	Number of \
	Lancana and a second se	***************************************
\$1,000	daily weekly monthly quarterly semiannual annual ingle event	mark only one with an x
	vent is recommended for the failure to collect and analyze soil samples during	One annua
	September 2010.	
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The state of the s	ΑΝΝΙΙΔΙ	TZF [1] avoided	costs before	enterir	na item (excent l	for one-time avoid	ted costs)
		T		0.00	\$0	\$0	\$0
Personnel		i e	***************************************	0.00	\$0	\$0	\$0
spection/Reporting/Sampling		1		0.00	\$0	\$0	\$0
Supplies/equipment		i e e e e e e e e e e e e e e e e e e e		0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	30-Sep-2010	1-Nov-2010	1.01	\$8	\$150	\$158
Other (as needed)		\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \		0.00	\$0	\$0	\$0
	One time a	voided costs inclu	de the estimate	d amou	unt to collect an an	nnual soil sample an	d report it to
Notes for AVOIDED costs TCE	EQ. The da	te required is the			l report were due i s first observed.	and the final date is	the date when
Approx. Cost of Compliance		\$150			TOTAL		\$158

Compliance History

Customer/Respondent/Owner-Operator:

CN600653703 City of Dell City

Classification: AVERAGE

Rating: 24.63

Regulated Entity:

RN102844032 DELL CITY

Classification: POOR

Site Rating: 46.25

ID Number(s):

WASTEWATER PERMIT WQ0014256001

Location:

0.75 MILE NORTHEAST OF THE INTERSETION OF FARM-TO-MARKET ROAD 1437 &

FARM-TO-MARKET ROAD 2249, DELL CITY, HUDSPETH COUNTY, TEXAS

TCEQ Region:

REGION 06 - EL PASO

Date Compliance History Prepared:

May 24, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period:

May 24, 2006 to May 24, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

Michaelle Sherlock

Phone:

(210) 403-4076

Site Compliance History Components

- 1. Has the site been in existence and/or operation for the full five year compliance period? Yes
- Has there been a (known) change in ownership/operator of the site during the compliance period? No
- If Yes, who is the current owner/operator? N/A
- If Yes, who was/were the prior owner(s)/operator(s)? N/A
- When did the change(s) in owner or operator occur? N/A
- 6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

Chronic excessive emissions events. C.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 06/28/2006

(482289)

2 06/12/2009

(736700)

3 11/17/2010

(872712)

4 02/21/2011

(895881)

5 05/17/2011

(920904)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:

06/28/2006

(482289)CN600653703

Self Report? NO

Citation:

2A TWC Chapter 7, SubChapter A 7.101

Description:

Failure to comply with Agreed Order (Docket No. 2004-0609-MLM-E) by

failing to conduct annual soil samples.

Date:

11/19/2010

(872712)CN600653703

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

Description:

Failure to irrigate the same area described and listed in the permit. Specifically.

the entity has an irrigation system that is only capable of irrigating approximately

1 acre of the 74.6 acres of non-public access land authorized for surface

irrigation.

Self Report? NO

Classification: Moderate

Classification: Major

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

Description:

Failure to obtain and record the volume of treated effluent applied as irrigation

water in order to determine irrigation application rates. In addition, the entity does not have equipment in place to obtain accurate measurements of the volume of treated effluent applied as irrigation water.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

Description:

Failure to collect annual soil samples of the irrigated site for the required parameters and submit the report of analysis of the annual soil samples to the TCEQ by September of each year. The last annual soil sampling event was

conducted on September 29, 2009, and has not been conducted to date.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 319, SubChapter A 319.5(b)

Description:

Failure to conduct sampling of the wastewater for Biochemical Oxygen

Demand-5 day (BOD5) once per week and pH once per month.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

Description:

Failure to maintain the systems of collection. Specifically, the two (2) lift stations are operating on emergency power. During the investigation, Mr. Sanders stated that the 2 lift stations had not been operating under normal conditions for

approximately 2 to 3 years.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305,125(1)

Description:

Failure to obtain and record measurements for daily flow five times per week to determine daily average flow and compliance with flow limits. In addition, the entity does not have equipment in place to monitor flow after the final treatment unit and prior to storage of the treated effluent as specified in the permit.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 305, SubChapter F 305.125(1)

Description:

Failure to maintain and operate the automatic flow measuring device or recording device. Currently, the primary flow measuring device installed to record the

amount of influent received by the Dell City facility is not operational.

F. Environmental audits.

N/A

Type of environmental management systems (EMSs). G.

H. Voluntary on-site compliance assessment dates.

N/A

Participation in a voluntary pollution reduction program. 1.

N/A

Early compliance. J.

N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:

CN600653703 City of Dell City

Classification: AVERAGE

Rating: 24.63

Regulated Entity:

RN101210409 DELL CITY

Classification:

Site Rating:

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1150001

WATER LICENSING LICENSE 1150001

Location:

103 SOUTH DODSON, DELL CITY, HUDSPETH COUNTY, TEXAS

TCEQ Region:

REGION 06 - EL PASO

Date Compliance History Prepared:

May 23, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period:

May 23, 2006 to May 23, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name:

Michaelle Sherlock

Phone:

(210) 403-4076

Site Compliance History Components

- 1. Has the site been in existence and/or operation for the full five year compliance period? Yes
- 2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
- 3. If Yes, who is the current owner/operator? N/A
- If Yes, who was/were the prior owner(s)/operator(s)? N/A
- 5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site:

- Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. N/A
- Any criminal convictions of the state of Texas and the federal government. B.

Chronic excessive emissions events. C.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 04/15/2007 (644410)
 - 2 07/01/2007 (645058)
 - 3 02/12/2009 (724651)
 - 4 11/22/2010 (872711)
 - 5 05/18/2011 (915789)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:

04/15/2007

(644410)CN600653703

Self Report? NO

Classification: Moderate 30 TAC Chapter 290, SubChapter F 290.109(f)(4)

Citation:

Description:

BACT - MONITORING/REPORTING VIOLATIONS

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)

Description:

PUBLIC NOTICE

Date:

11/22/2010

(872711)CN600653703

Self Report? NO

Classification: Minor

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description:

Failure to maintain the wellhead on the well sealed.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.42(e)(3)

Description:

Failure to install disinfection equipment so that continuous and effective disinfection can be secured at all times. Currently, the facility is batch chlorinating and does not have disinfection equipment in place to secure

continuous disinfection at all times.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.42(i)

Description:

Failure to obtain a Water Quality permit for the discharge of reject water from the Electro Dialysis Reversal unit. Any discharge of wastewater and other plant wastes shall be in accordance with all applicable state and federal statutes and regulations. Permits for discharging wastes from water treatment processes

shall be obtained from the commission.

Self Report? NO

Classification: Minor

Citation:

30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description:

Failure to maintain the two (2) hatches locked on the new 80,000 gallon ground

storage tank.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description:

Failure to provide additional protection at the meter in the form of an air gap or backflow prevention assembly at all establishments where an actual or potential contamination hazard exists. The type of backflow prevention assembly required shall be determined by the specific potential hazard identified in §290.47(i) of this

title (relating to Appendices).

Self Report? NO

Classification: Moderate

Citation: Description: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)

Oak Danado NO

Failure to maintain a record of the amount of chemical used each week.

Classification: Moderate

Self Report? NO

30 TAC Chapter 290, SubChapter D 290.46(I)

Citation: Description:

Failure to maintain a record of the flushing of dead-end mains at monthly

intervals.

Self Report? NO

Classification: Minor 30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Citation: Description:

Failure to conduct annual tank inspections on all ground storage tanks and the

elevated ground storage tank.

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description:

Failure to verify the accuracy of all the manual disinfectant residual analyzers

using chlorine solutions of known concentrations.

Self Report? NO

Classification: Minor

Citation:

30 TAC Chapter 290, SubChapter D 290.46(t)

Description:

Failure to post a sign at all of the production, treatment, and storage facilities. Each sign shall be located in plain view of the public and shall provide the name of the water supply and an emergency telephone number where a responsible official can be contacted.

Self Report? NO

Classification: Minor

Citation:

30 TAC Chapter 290, SubChapter F 290.121(a)

Description:

Failure to maintain a chemical and microbiological monitoring plan.

F. Environmental audits.

NI/Δ

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CITY OF DELL CITY	§	
RN101210409 AND	§	
RN102844032	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2011-0884-MLM-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Dell City ("the Respondent") under the authority of Tex. Health & Safety Code ch. 341 and Tex. Water Code chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a municipal public water supply at 103 South Dodson in Dell City, Hudspeth County, Texas (the "Public Water Facility") that has approximately 193 service connections and serves at least 25 people per day for at least 60 days per year.
- 2. The Respondent owns and operates a wastewater treatment facility located 0.75 mile northeast of the intersection of Farm-to-Market Road 1437 and Farm-to-Market Road 2249 in Dell City, Hudspeth County, Texas (the "Wastewater Facility").
- 3. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
- 4. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 24, 2011.

- 6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 7. An administrative penalty in the amount of Nine Thousand One Hundred Thirty-Eight Dollars (\$9,138) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Three Hundred Eleven Dollars (\$7,311) of the administrative penalty and One Thousand Eight Hundred Twenty-Seven Dollars (\$1,827) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
- 8. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 9. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 10. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Public Water Facility:
 - a. On May 17, 2011, conducted annual tank inspections for the 80,000 gallon ground storage tank installed in 2009, the 80,000 gallon ground storage tank installed in 1965, and the 50,000 gallon elevated storage tank located in the Public Water Facility's yard; and
 - b. As of June 10, 2011, removed the water service connection from the building at the east lift station to ensure that a backflow prevention device or air gap connection is no longer required at that location.
- 11. The Executive Director recognizes that on March 29, 2011, the Respondent obtained a soil analysis report for the Wastewater Facility which included all of the required sample parameters except potassium.
- 12. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 13. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 14. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Public Water Facility and the Wastewater Facility, the Respondent is alleged to have:

1. At the Public Water Facility:

- a. Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists, in violation of 30 Tex. ADMIN. CODE § 290.44(h)(1)(A), as documented during a record review conducted on May 5, 2011;
- b. Failed to inspect the elevated and ground storage tanks on an annual basis, in violation of 30 Tex. Admin. Code § 290.46(m)(1)(A), as documented during a record review conducted on May 5, 2011; and
- c. Failed to obtain a discharge permit from the Commission prior to any discharge of wastewater, in violation of 30 Tex. Admin. Code §§ 305.42(a) and 290.42(i) and Tex. Water Code § 26.121(a), as documented during a record review on May 5, 2011.

2. At the Wastewater Facility:

- a. Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0014256001, Operational Requirements No. 1, as documented during a record review conducted on May 16, 2011. Specifically, at the time of the record review, it was observed that the two lift stations were operating on emergency power;
- b. Failed to monitor for each parameter at the frequency specified in the permit, in violation of 30 Tex. Admin. Code §§ 305.125(1) and 319.5(d) and TCEQ Permit No. WQ0014256001, Effluent Limitations and Monitoring Requirements, Section B: Monitoring Requirements, as documented during a record review conducted on May 16, 2011. Specifically, at the time of the record review, it was documented that the Facility was not obtaining and recording measurements for daily flow five times per week because appropriate flow measuring devices were not installed after treatment and before storage and the Facility was not sampling for Biological Oxygen Demand 5-day (BOD₅) once per week and pH once per month;
 - c. Failed to correct information submitted on an application and submit it to the Executive Director, in violation of 30 Tex. ADMIN. Code § 305.125(1) and TCEQ Permit No. WQ0014256001, Permit Conditions No. 1 as documented during a record review conducted on May 16, 2011. Specifically, at the time of the record review, it was observed that the Facility is only capable of irrigating approximately 1 acre of the 74.6 acres of non-public access land authorized by permit; and

d. Failed to collect annual soil samples of the irrigated site for the required parameters at the specified frequency and submit the report to the TCEQ during September of each year, in violation of 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0014256001, Special Provisions No. 8, as documented during a record review conducted on May 16, 2011. Specifically, at the time of the record review, it was documented that the last soil samples were collected on September 29, 2009 for the monitoring period from October 1, 2008 to September 30, 2009.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Dell City, Docket No. 2011-0884-MLM-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements at the Public Water Facility:
 - a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges from the Electro Dialysis Reversal Unit;
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 3.b, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a;
 - c. Within 90 days after the effective date of this Agreed Order:
 - i. Conduct an inspection of the Facility's 50,000 gallon ground storage tank, in accordance with 30 Tex. ADMIN. CODE § 290.46;

- ii. Install backflow prevention devices or air gaps as required at all establishments where an actual or potential contamination hazard exists, including but not limited to the Project Vida clinic located adjacent to City Hall, in accordance with 30 Tex. ADMIN. CODE § 290.44;
- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 3.b, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 180 days after the effective date of this Agreed Order, maintain the Facility's Electro Dialysis Reversal Unit to prevent a discharge or obtain a permit to discharge wastewater from the Facility's backwash reclaim tank; and
- f. Within 195 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 3.b, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e.
- 3. It is further ordered that the Respondent shall undertake the following technical requirements at the Wastewater Facility:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin properly maintaining all systems of collection, treatment, and disposal, including but not limited to, restoring normal power to the two lift stations, in accordance with TCEQ Permit No. WQ0014256001, Operational Requirements No. 1;
 - ii. Begin obtaining and recording measurements for daily flow five times per week after treatment and before storage, BOD₅ once per week, and pH once per month, in accordance with 30 Tex. Admin. Code § 319.5 and TCEQ Permit No. WQ0014256001, Effluent Limitations and Monitoring Requirements, Section B: Monitoring Requirements;
 - iii. Install equipment that has the capability of irrigating 74.6 acres of non-public access land at application rates that do not exceed 0.22 acre-feet per year per acre irrigated or submit an accurate application for a permit amendment to the TCEQ Wastewater Permitting Section to accurately reflect the irrigation system capabilities, in accordance with TCEQ Permit No. WQ0014256001, Permit Conditions No. 1; and
 - iv. Being collecting annual soil samples for all permit-required parameters, including but not limited to potassium, in accordance with TCEQ Permit No. WQ0014256001, Special Provisions No. 8.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance

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with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Water Section, Manager El Paso Regional Office Texas Commission on Environmental Quality 401 East Franklin Avenue, Suite 560 El Paso, Texas 79901-1206

- 4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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- 7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 8. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 9. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	\
agree to the attached Agreed Order on behalf	nd the attached Agreed Order. I am authorized to f of the entity indicated below my signature, and d therein. I further acknowledge that the TCEQ, in materially relying on such representation.
 and/or failure to timely pay the penalty amou A negative impact on compliance histo Greater scrutiny of any permit applicate Referral of this case to the Attorney additional penalties, and/or attorney for a linereased penalties in any future enformation. Automatic referral to the Attorney Great and TCEQ seeking other relief as authorized 	ory; tions submitted; General's Office for contempt, injunctive relief ees, or to a collection agency; rement actions; eneral's Office of any future enforcement actions
Maria E Deullen Signature	August 15, 2011 Date
Maria Guillen Name (Printed or typed)	Mayor Title
Authorized Representative of	Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.